

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
FILE NO. 3:12-CV-415

DATA DRIVEN SAFETY, INC.,

Plaintiff,

v.

DRIVER'S HISTORY, INC.,

Defendant.

**PLAINTIFF DATA DRIVEN SAFETY,
INC.'S MOTION TO STRIKE ANSWER
AND COUNTERCLAIM OR, IN THE
ALTERNATIVE, MOTION TO
DISMISS COUNTERCLAIM**

NOW COMES Plaintiff Data Driven Safety, Inc. (“DDS” or “Plaintiff”), by and through its undersigned counsel, and hereby moves pursuant to Federal Rule of Civil Procedure 12(f) to strike the Answer and Counterclaim filed by third-party Driver’s History Information Sales, LLC (“DHIS”). In the alternative, Plaintiff DDS moves pursuant to Federal Rule of Civil Procedure 12(b)(6) to dismiss third-party DHIS’s Counterclaim. This motion is made on the grounds set forth in the memorandum of law filed contemporaneously herewith.

Wherefore, Plaintiff DDS respectfully prays the Court as follows:

1. That the Court strike the Answer and Counterclaim filed by third-party DHIS;
2. Or, in the alternative, that the Court dismiss the Counterclaim filed by third-party DHIS; and
3. That the Court grant such other and further relief as it deems just and proper.

Respectfully submitted, this the 11th day of February, 2013.

MCGUIREWOODS LLP

By: /s Lauren B. Loftis

Brian A. Kahn
N.C. Bar No. 29291
Lauren B. Loftis
N.C. Bar No. 41391
201 North Tryon Street, Suite 3000 (28202)
Post Office Box 31247
Charlotte, North Carolina 28231
Telephone: 704-343-2356
Facsimile: 704-343-2300

Attorneys for Plaintiff Data Driven Safety, Inc.

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this 11th day of February, 2013, served the foregoing **PLAINTIFF DATA DRIVEN SAFETY, INC.'S MOTION TO STRIKE ANSWER AND COUNTERCLAIM OR, IN THE ALTERNATIVE, MOTION TO DISMISS COUNTERCLAIM** on all parties and/or attorneys of record via the CM/ECF system as follows:

Jason B. James

Email: jjames@poynerspruill.com

Karen H. Chapman

Email: kchapman@poynerspruill.com

Joshua B. Durham

Email: jdurham@poynerspruill.com

ATTORNEYS FOR DEFENDANT

/s/ Lauren B. Loftis